NTCA

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The Voice of Rural Telecommunications

www.ntca.org

May 22, 2012

Ex Parte **Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Connect America Fund, **WC Docket No. 10-90;** ***A National Broadband Plan for Our Future,*** **GN Docket No. 09-51;** ***Establishing Just and Reasonable Rates for Local Exchange Carriers,*** **WC Docket No. 07-135;** ***High-Cost Universal Service Support,*** **WC Docket No. 05-337;** ***Developing a Unified Intercarrier Compensation Regime,*** **CC Docket No. 01-92;** ***Federal-State Joint Board on Universal Service,*** **CC Docket No. 96-45;** ***Lifeline and Link-Up,*** **WC Docket No. 03-109;** ***Universal Service Reform–Mobility Fund,*** **WT Docket No. 10-208;** ***Rules and Regulations Implementing the Truth in Caller ID Act of 2009,*** **WC Docket No. 11-39**

Dear Ms. Dortch:

On Friday, May 18, 2012, Shirley Bloomfield, Chief Executive Officer, and the undersigned met on behalf of the National Telecommunications Cooperative Association ("NTCA") with Commissioner Ajit Pai and Matthew Berry, Chief of Staff to Commissioner Pai, to discuss certain matters in the above-referenced proceedings.

NTCA provided the attached materials in the meeting as an overview of NTCA's member companies and the rural nature of the areas they serve. We discussed the substantial achievements of these companies to date in deploying broadband services in such remote areas, and their need for predictable and sufficient cost recovery mechanisms to sustain, upgrade, and expand these operations.

Consistent with prior *ex parte* presentations also attached hereto, NTCA described its positions with respect to ongoing efforts to implement universal service and intercarrier compensation reforms adopted by the Federal Communications Commission (the "Commission"). As outlined in these materials, NTCA urged the Commission to resolve the many questions still swirling with respect to implementation of the changes adopted last fall, and to take the time to evaluate through a data-driven process the impact of those changes once clarified and implemented on rural consumers and the fundamental objectives of universal service.

Finally, NTCA reported with respect to the recent completion of an additional project to test the rates of completion of long distance calls to both rural and non-rural areas. NTCA noted that the test call project found that failures on calls destined for rural areas still far outpace (by approximately 13 times) those placed to non-rural customers, and that nearly a third of rural test lines experienced call failure rates in excess of twenty percent. In light of such data, NTCA yet again encouraged the Commission to undertake investigation and rigorous enforcement of call blocking prohibitions, nondiscrimination requirements, and other provisions of applicable law, including but not limited to the Declaratory Ruling issued by the Wireline Competition Bureau in February 2012.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact me.

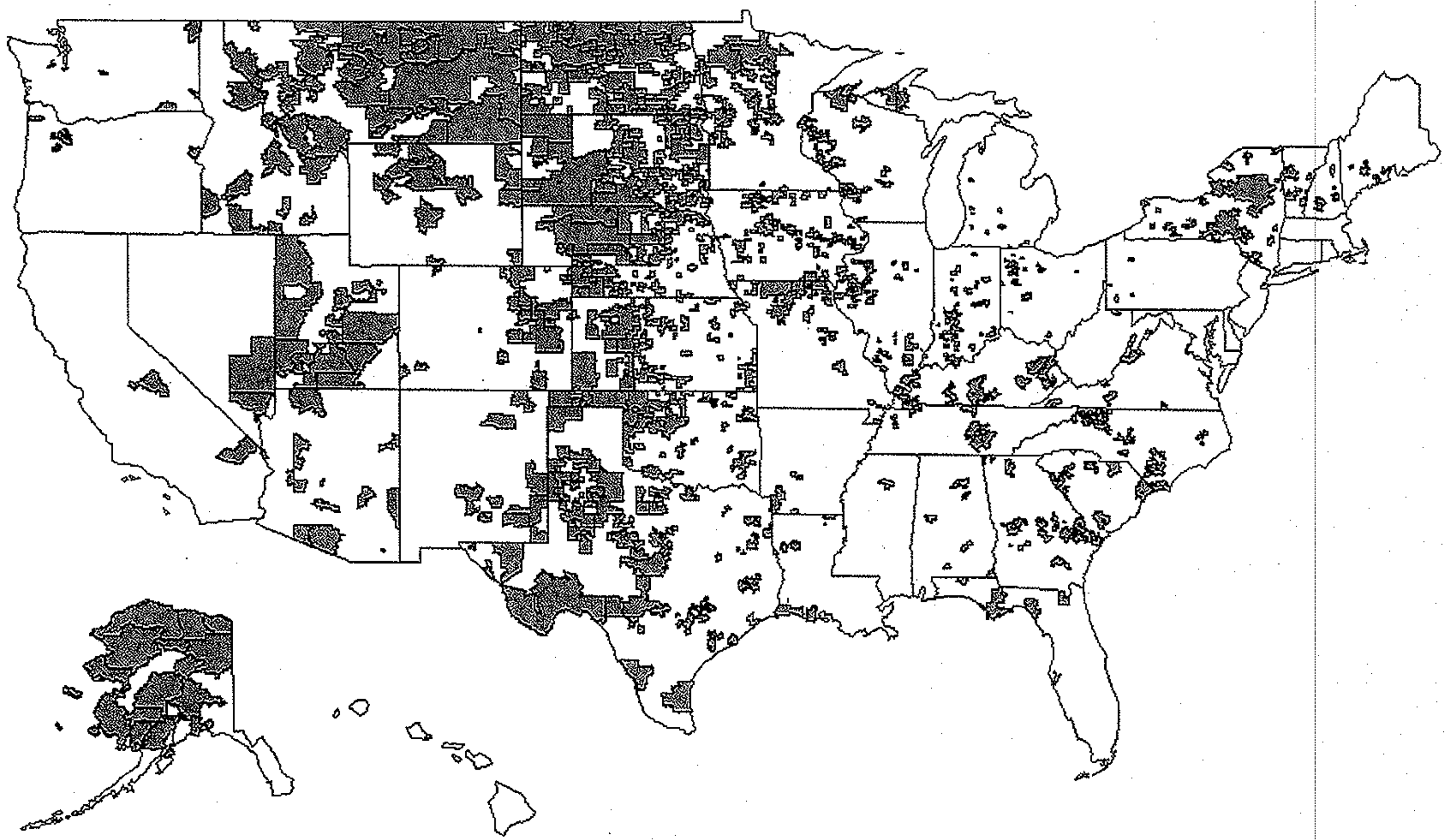
Sincerely,

/s/ Michael R. Romano
Michael R. Romano
Senior Vice President - Policy

Enclosures

cc: Commissioner Ajit Pai
Matthew Berry

NTCA Service Areas



Territories served by NTCA members

NTCA

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The Voice of Rural Telecommunications

www.ntca.org

We are the National Telecommunications Cooperative Association. Since 1954, the voice of small, rural telecommunications carriers. We are community based, locally-owned companies, dedicated to providing vital telecommunications services—ensuring the economic future of rural America.

Connecting the Heartland of America to the World

NTCA
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
The Voice of Rural Telecommunications

The National Telecommunications Cooperative Association (NTCA), "the voice of rural telecommunications," is the premier non-profit association representing more than 570 small and rural telephone cooperatives and locally-owned and controlled commercial companies.

Connecting America's Heartland to the World

- NTCA members deliver high-quality communications services in the most sparsely-populated, highest cost rural areas of the country. As "carriers of last resort" NTCA members provide reliable voice data, and broadband communications services in the nation's most economically challenging markets.

- America's independent telephone systems serve more than 40% of the nation's land mass—but less than 5% of the nation's telephone subscribers. NTCA members' highest customer density, approximately seven subscribers per line mile, is in the rural Southeast. One Texas company serves, on average, one person per 10 line miles. By contrast, the Bell operating companies, on average, serve 130 customers per line mile.

- NTCA members vary tremendously in size: The average telco has approximately 5,344 subscribers, 31 employees, and an annual revenue base of between $1 million and $5 million. Many also own cable TV and cellular subsidiaries and offer other enhanced services such as home security and data storage.

- The customer bases of NTCA members range from less than 100 subscribers to more than 50,000 (only four members are this size). NTCA members serve an average of 4,800 access lines. The smallest member telco employs a staff of two, and the largest more than 400. Annual operating revenues range from less than $100,000 to more than $40 million.

- As locally-based small businesses, NTCA members have a vested interest in their communities and often partner with local schools, hospitals, and other civic entities to provide affordable, high-quality services that improve the lives of rural residents.

Delivering the Broadband Future

- Despite enormous challenges, NTCA members have made tremendous strides in deploying broadband networks throughout rural America. Ninety-eight percent of respondents to NTCA's most recent broadband availability survey offer broadband to some part of their customer base.

- NTCA members rely on a proven cost recovery system of Rate-of-Return regulation, universal service support and intercarrier compensation to support the investments necessary for deployment of multi-use networks capable of providing both traditional voice and advanced broadband services.

- A continued commitment to ensuring rural Americans have access to communications services that are comparable in price and scope to those available in urban areas is critical to NTCA members' ability to sustain their investments in broadband-capable infrastructure and to deliver the services rural communities rely on to fully participate in the digital world.

NTCA
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
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April 18, 2012

Ex Parte Notice

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

***Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109; *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208**

Dear Ms. Dortch:

On Tuesday, April 17, 2012, Joshua Seidemann and the undersigned, on behalf of the National Telecommunications Cooperative Association ("NTCA"), met with Carol Mattey, Amy Bender, Soumitra Das, Patrick Halley, Trent Harkrader, Alex Minard, and Gary Seigel of the Wireline Competition Bureau. NTCA raised the following issues relating to further Universal Service Fund ("USF") reform and implementation of those reforms already adopted in the Order released on November 18, 2011 by the Federal Communications Commission (the "Commission") in the above-referenced proceedings.

Financial Reporting Issues. Consistent with prior correspondence, NTCA urged the Commission to: (1) permit all RLECs to submit a financial reporting form analogous to RUS Form 479, as signed by company representatives, in August or the early fall of each year in lieu of requiring certified audit reports by April 1 of each year; (2) allow RLECs that do not obtain audit reports in the ordinary course of their business to prepare the information on such a form through a compilation process in lieu of annual reports of financial condition and operations that have been audited and certified by an independent certified public accountant; and (3) allow RLECs to submit financial data under seal pursuant to the established protective order process, and also permit any given RLEC to seek such additional protection as it may deem necessary and appropriate under applicable law. *Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No 10-90, *et al.* (filed Mar. 27, 2012).

In the meeting, NTCA emphasized that a financial compilation should suffice for the purposes identified by the Commission in the Order, particularly when considered in conjunction with the existing safeguards of the many other accountability measures (such as USAC audits) that presumably still apply to USF recipients. NTCA also contended that requiring interested persons to obtain access to confidential financial information pursuant to an acknowledgment of confidentiality and a protective order (if not greater protection) is essential to ensure that such information is not placed in the hands of persons with competitive decision-making responsibilities, and we further observed that no person had asserted any burden with such a process. Indeed, NTCA noted that a carrier's reliance on USF support might ironically *increase* to the extent that a competitor could use commercially sensitive financial information to "cherry-pick" customers and engage in gamesmanship with respect to profit margins and selective pricing of services in portions of service areas.

Waiver Mechanism. NTCA next raised concerns about the waiver process outlined in the Order. In particular, NTCA observed that the waiver process – and in particular the conditions under which a waiver request might be granted – are disconnected from the core requirements of universal service and the Commission's expressly stated objective to promote access to broadband that is reasonably comparable in price and quality. NTCA urged the Commission to modify its waiver standard consistent with the requests submitted by several other parties. *See* Petition for Reconsideration of NECA, OPASTCO, and WTA, WC Docket No. 10-90, *et al.* (filed Dec. 29, 2011), at 19-21.

Safety Net Additive. NTCA expressed concern with respect to the "flash cut" phase-out of investment-based Safety Net Additive ("SNA") support for those who deployed broadband-capable networks in 2010 and 2011. These companies undertook investment in good faith based upon then-current rules, and would have qualified for cost recovery but for the two-year lag in such recovery built into those rules. Although NTCA disagrees generally with the elimination of SNA support, such elimination is particularly inequitable and improper as to companies that lose access to USF support associated with investment in broadband-capable networks during the two years leading up to the release of the Order simply because of a regulatory procedural lag. NTCA also noted that such support should certainly be maintained in the face of this procedural lag if similar transitions are provided to other carriers. *See, e.g., Ex Parte* Letter from John Nakahata, Counsel to General Communication Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No 10-90, *et al.* (filed April 16, 2012).

Regression Analysis Caps. Finally, NTCA reiterated its continuing concern with respect to the use of a regression analysis to establish caps on USF-supported capital and operating expenses associated with investments made prior to the effective date of the Commission's Order. *See, e.g.*, Comments of NTCA, *et al.*, (filed Jan. 18, 2012), at 63-75 and Appendices D and E; Reply Comments of NTCA, *et al.*, (filed Feb. 18, 2012), at 24-28 and Appendix B; Comments of the Nebraska Rural Independent Companies (filed Jan. 18, 2012), at 9-50; Comments of the Rural Broadband Alliance (filed Feb. 17, 2012), at 2-23. NTCA emphasized the procedural necessity of giving parties adequate time prior to the caps taking effect to review and respond to any modifications to those caps, including both the individual carrier data within the model as well as any substantive assumptions and other inputs utilized therein.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano

Senior Vice President - Policy

cc: Carol Mattey
Amy Bender
Soumitra Das
Patrick Halley
Trent Harkrader
Alex Minard
Gary Seigel

NTCA
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May 4, 2012

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

***Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109; *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208**

Dear Ms. Dortch:

On Thursday, May 3, 2012, Shirley Bloomfield and the undersigned met on behalf of the National Telecommunications Cooperative Association ("NTCA") with Commissioner Robert McDowell and his Policy Director and Wireline Counsel, Christine Kurth, to discuss certain matters in the above-referenced proceedings.

Regression Analysis Cost Caps. NTCA indicated that, while it continues to review the recent Wireline Competition Bureau Order with respect to the use of a regression analysis to establish caps on capital and operating expenses supportable through the universal service fund, the Order appeared to represent a productive step forward in addressing technical concerns raised with respect to the prior version of the model and the need for some transition. This being said, NTCA reiterates several continuing concerns with respect to the regression analysis cost caps, including:

- The use of inaccurate data in the capping calculation through at least January 1, 2014, even if there is an opportunity to seek to have that data corrected as of 2014 and a transitional phase-in for the caps prior to that time.

- The stated objective of encouraging alleged "efficiency" is not served by the caps in their current form because it remains difficult, if not impossible, to discern the reasons that any given carrier may or may not be affected by the caps. The caps thus appear to provide little guidance on how different kinds of carriers might need to adjust their business practices to comply with the caps in building and operating broadband-capable networks in diverse high-cost, hard-to-serve rural areas.

- Even if the caps were more transparent and enabled any given carrier to understand the reasons it might or might not find its cost recovery limited, the caps will be adjusted annually starting in 2014 based upon reasons that are both within and beyond any given carrier's control. This means that any steps that a carrier might take to avoid continuing application of the caps could be mooted by changes to the caps each year and the conduct of other carriers.

- Even those carriers unaffected by the caps in their current iteration remain concerned that the dynamic, annually changing nature of the caps, together with their opaque nature, will "trap" different carriers in subsequent years. Indeed, carriers may be unable to predict whether any given network build or increased operational effort might result in becoming "the next to fall" within the caps. This is compounded by the fact that High-Cost Loop support operates on a two-year lag, meaning that adjustments in investment and operating practices now would only be reflected years later in subsequent iterations of the caps.

NTCA committed to return to the Commission with further technical input on the new version of the regression analysis model, and to discuss how to square any desire for constraints on universal service cost recovery with the need to ensure predictability and sufficiency in recovering the costs of deploying and operating broadband-capable networks in high-cost areas.

Need for Implementation and Evaluation of Recent Reforms. NTCA continues to express concern with the adoption of any further caps, cuts, and constraints to universal service support and intercarrier compensation in the wake of the Commission's November 2011 Order. The Commission has described its actions in that Order as "sweeping reforms" and an "overhaul [that] transforms the FCC's outdated universal service and intercarrier compensations systems into a new Connect America Fund, or CAF, representing the most significant policy step ever taken to connect all Americans to broadband." *FCC Releases 'Connect America Fund' Order to Help Expand Broadband, Create Jobs, Benefit Consumers,* Commission Press Release (rel. Nov. 18, 2011). NTCA notes that the "dust has not even started to settle" on these "sweeping reforms," and that end users already appear to face the prospect of significant rate increases as a result of the actions just taken. We also observe that numerous questions and substantial confusion persist with respect to implementation of the November 2011 Order. *See, e.g., Ex Parte* Letter from Brian Benison, Director-Federal Regulatory, AT&T, to Marlene H. Dortch, WC Docket No 10-90, *et al.* (filed April 2, 2012) (setting forth 28 questions over five pages with respect to implementation of intercarrier compensation reform alone).

In light of these many outstanding questions and significant concerns, rural consumers, service providers, and lenders and investors would be far better served if the Commission were to first answer the many pending questions regarding its November 2011 Order, take the time to implement these changes to the extent consistent with applicable law, and expressly and affirmatively commit to engage in a "data-driven" evaluation of the impacts of the "sweeping reforms" already adopted once implemented before considering whether any further changes may be necessary to comport with and fulfill the statutory mandate of universal service.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS. If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano
Senior Vice President - Policy

cc: Commissioner Robert McDowell
Christine Kurth